

**Before the State of South Carolina
Department of Insurance**

In the matter of:

Mr. Niko M. Winfield

1165 Mahaffey Line Drive

Lancaster, South Carolina 29720.

SCDOI File Number 2002-114077

**Default Order Revoking
Resident Insurance Agent's
License**

This matter comes before me pursuant to a Letter of Allegation and Notice of Opportunity for Public Hearing served, as required within S.C. Code Ann. § 38-3-170 (2002), by the State of South Carolina Department of Insurance upon Niko M. Winfield, a licensed South Carolina resident insurance agent, by both certified mail, return receipt requested, and by regular mail on December 13, 2002.

That letter informed Niko M. Winfield of his right to request a public hearing upon the allegations of impropriety contained within the letter against him. Furthermore, our Department had agreed to grant Mr. Winfield the opportunity to waive a hearing, by paying a fine in the amount of \$300, but he never signed the Consent Order Imposing Administrative Penalty, nor paid said fine. The letter further warned that his failure to make a timely, written request would result in my summary revocation of his license to do business as a resident insurance agent within the State of South Carolina. Despite that warning, Niko Winfield has failed to respond to the Department's letter. On January 6, 2003, therefore, counsel for the Department filed an Affidavit of Default, and submitted the entire matter directly to me for my summary decision based solely on the record.

The letter alleged, and I now find as fact, that while licensed to do business as a resident insurance agent within the State of South Carolina for Apex Bail Bonding, Niko Winfield failed to disclose a criminal conviction on his application for Individual Insurance Agent's License, dated May 27, 2000. These acts, as alleged, are a direct violation of S.C. Code Ann. § 38-43-130 (2002). That Code section provides that "[t]he director or his designee may revoke or suspend an agent's license after ten day's notice...when it appears that an agent...has willfully deceived or dealt unjustly with the citizens of this State." This Code section goes on in Subsection (1) to describe "deceived or dealt unjustly with the citizens of this state" specifically to include, "misstating the facts in an application for insurance or aiding in the misstatement of facts."

In accordance with my findings of fact, and considering Niko Winfield's complete refusal to avail himself of his opportunity to be heard, I now conclude, as a matter of law, that he willfully deceived and dealt unjustly with the citizens of South Carolina,

thereby violating S.C. Code Ann. § 38-43-130(1) (2002), and that his license should be revoked.

This administrative disciplinary order is a public record subject to the disclosure requirements of the State of South Carolina's *Freedom of Information Act*, S.C. Code Ann. §§ 30-4-10, *et seq.* (1991 and Supp. 2002). Nothing contained within this administrative disciplinary order should be construed to limit or to deprive any person of any private right of action under the law. Nothing contained within this administrative disciplinary order should be construed to limit, in any manner, the criminal jurisdiction of any law enforcement or judicial officer. Nothing contained within this administrative disciplinary order should be construed to limit the statutory duty of the Director of Insurance, exercised either directly or through the Department of Insurance, to "report to the Attorney General or other appropriate law enforcement officials criminal violations of the law relative to the business of insurance or the provisions of this title which he considers necessary to report." S.C. Code Ann. § 38-3-110 (4) (2002).

It is therefore ordered that Niko M. Winfield's license to transact business as a resident insurance agent within the State of South Carolina be, and is hereby, revoked, and that no license, issued through the State of South Carolina Department of Insurance is to be issued to him.

It is further ordered that a copy of this Order be transmitted to the National Association of Insurance Commissioners for distribution to its current member states and to each insurer for which Niko Winfield is currently licensed, through the State of South Carolina Department of Insurance, as a resident insurance agent within the State of South Carolina.

This order becomes effective as of the date of my signature below.

A handwritten signature in black ink, appearing to read "E. N. Csiszar", with a long horizontal flourish extending to the right.

Ernst N. Csiszar
Director

06 January 2003 at
Columbia, South Carolina

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Department of Insurance**

In the matter of:

SCDOI File Number 2002-114077.

Niko M. Winfield
165 Mahaffey Line Drive
Lancaster, South Carolina 29720.

Affidavit of Default

Personally appeared before me T. Douglas Concannon, who, being duly sworn, stated that at all times relevant to this Affidavit of Default he was an attorney representing the State of South Carolina Department of Insurance in this administrative action. He further stated the following:

The Department served notice on Niko M. Winfield, at the address detailed above by a Letter of Allegation and Notice of Opportunity for a Public Hearing that the Department would request the Director of Insurance to summarily revoke his license to act as a resident insurance agent within the State of South Carolina in thirty days. The Department served the Notice, pursuant to S.C. Code Ann. § 38-3-170 (2002), by "depositing it in the United States mail, postage prepaid, addressed to the last known address of the person and registered with the return receipt requested." That Notice further informed Mr. Winfield of his opportunity, within thirty days, to request in writing a public hearing. Furthermore, our Department had also agreed to grant Mr. Winfield the opportunity to waive a hearing, by paying a fine in the amount of \$300. However, Mr. Winfield failed to sign the Consent Order Imposing Administrative Penalty, nor paid the fine.

The United States Postal Service effected service of the Notice by certified mail, return receipt requested, and by regular mail, on or about July 9, 2002, 2002, and again on December 13, 2002. Mr. Winfield has made no request for a public hearing or any other response to the Notice. The time in which to do so has expired. He is now in default.


T. Douglas Concannon
Associate General Counsel

Sworn to and subscribed before me
this 6th day of January, 2003.



Steven R. DuBois
Notary Public for the State of South Carolina
My Commission Expires May 10, 2009

South Carolina Department of Insurance
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